<center>REMARKS</center>

This communication is responsive to the Non-Final Office Action dated September 16, 2009. Claims 4-6, and 16-21 are amended. New claims 23 and 24 are added. Claims 4-6 and 16-24 are pending. Applicant respectfully requests reconsideration of the present rejection. Applicant believes this communication to be fully responsive to all issues raised in the Action.

<center>*§ 103 Rejections*</center>

Claims 4, 16, 17, and 21 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Raphaeli et al. (US 7,463,709, hereinafter "Raphaeli").

Claims 5 and 6 are rejected under 35 U.S.C. §under 35 U.S.C. §103(a) as allegedly being anticipated over Raphaeli in view of The Admitted Prior Art (APA) (fig. 2).

Claims 18-20 are rejected under 35 U.S.C. §103(a) as allegedly being anticipated over Raphaeli, in view of APA, and further in view of Van Driest (US 6,115,411).

<center>*Response to rejections*</center>

Independent claims 16 and 21 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Raphaeli based on an allegation that Raphaeli "discloses a first encoder and a second encoder except that the spread spectrum encoder (spreading waveform generator 20) is placed after (reversal of part) the silp *(sic)* encoder (14)." Applicant respectfully traverses the rejection.

Nevertheless, in order to advance prosecution, claims 16 and 21 have been clarified to recite in claim 16 "encoding a second set of transmit data values into the encoded transmit data stream by varying an amount of time

delay inserted between the transmission of sequentially generated PN codes output in the encoded transmit data stream," and to recite in claim 21 "a slip encoder configured to encode other multiple different transmit data values into the encoded transmit data stream by varying time spacing between the spread spectrum codes". Supporting disclosure may be found in Applicant's specification at, for example, pages 6:3 to 8-19 and Fig. 7.

In contrast, Raphaeli teaches "The transmitter functions not only to transmit data but also the synchronization sequence which forms the start of packet signal that is transmitted at the beginning of each packet." (Col. 7:50-52.) "... [A] set of five orthogonal synchronization sequences are *(sic)* provided wherein each sequence is used to convey information about the packet type used in the particular transmission." (Col. 8:26-30.) Clearly, the synchronization sequences do not comprise "transmit data values" and there is no teaching or suggestion by Raphaeli of the above recited features in claims 16 and 21. Attendant advantages are discussed in Applicant's specification at, for example, page 5:3-14. Claims 16 and 21 are patentable over Raphaeli and in condition for allowance. Similar comments are applicable to new claim 24, dependent from new claim 23, discussed below.

Dependent claims 17-20 are allowable as depending from allowable base claim 16.

Dependent claims 4-6 are allowable as depending from allowable base claim 21.

New claim 23 is based on previous claim 21 but also recites "a slip encoder configured to binary encode other multiple different data values into the encoded data stream by varying time spacing between the spread spectrum codes, wherein the other binary encoded data values include inverted binary encoded data values above a threshold data value ...". No such slip encoder is seen to be disclosed or suggested by Raphaeli, APA or

van Driest. Supporting disclosure may be found in Applicant's specification at, for example, page 11:1-26 and Fig. 9. Claim 23 is patentable over Raphaeli, APA or van Driest considered individually or in conjunction with each other, and is in condition for allowance. Dependent claim 24 is independently patentable as discussed above.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other reference of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Paul W. Mitchell, at (509) 252-5015.

Please charge any additional fees under 37 CFR §§ 1.16, 1.17, 1.18, 1.20 and 1.21 that may be required to maintain pendency of the present application, or apply any credits to our PTO deposit account number: 50-3781.

Respectfully submitted,

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